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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1889.

No. 5 (Original).

EX PARTE: IN THE MATTER OF JAMES J. MEDLEY, PETITIONER.

PETITION FOR A WRIT OF HABEAS CORPUS.

FILED DECEMBER 16, 1889.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1889.

No. 5 (Original).

EX PARTE: IN THE MATTER OF JAMES J. MEDLEY, PETITIONER.

PETITION FOR A WRIT OF HABEAS CORPUS.

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1 Supreme Court of the United States, October term, 1889.

At the Capitol of the United States, in the city of Washington and District of Columbia, being the present seat of the National Government of the United States, on the second Monday of October (being the fourteenth day of the same month), in the year of our Lord one thousand eight hundred and eighty-nine, and of the Independence of the United States the one hundred and fourteenth, the Supreme Court of the United State met agreeably to law.

And afterwards, to wit, on the 13th day of December, A. D. 1889, the following entry appears of record, viz:

2 Ex parte: In the matter of James J. Medley, petitioner, and
Ex parte: In the matter of James H. Savage, petitioner.

Mr. Henry Wise Garnett, of counsel, submitted to the consideration of the Court motions for leave to file petitions for writs of habeas corpus, and for leave to prosecute in forma puperis.

Which said motion for leave to file petition of James J. Medley is in the words and figures following, viz:

3 In the Supreme Court of the United States, in the matter of the application of James J. Medley for a writ of habeas corpus.

UNITED STATES OF AMERICA,
State of Colorado, County of Arapahoe, ss:

Now comes the petitioner, James J. Medley, by his counsel, and moves this Honorable Court for leave to file a petition praying that a writ of habeas corpus may issue from this court, and submits thereon the accompanying brief.

It appearing that the said petitioner is now under sentence of death, and his counsel being advised that execution of such sentence is fixed for some day in the fourth week of the month of December instant, the speedy action of this Honorable Court in the premises is earnestly prayed.

Respectfully submitted.

ROBERT W. BONYNGE,
Counsel for Petitioner.
A. T. BRITTON,
HENRY WISE GARNETT,
Of Counsel.

4 (Indorsed:) Supreme Court, U. S. 1889, October Term. No. 5. Original. Ex parte. In the matter of James J. Medley, petitioner. Motion for leave to file petition for writ of habeas corpus. Filed Dec'r 13, 1889.

5 And afterwards, to wit, on the 16th day of December, A. D. 1889, the following entry appears of record, viz:

Ex parte: In the matter of James J. Medley, petitioner, and
Ex parte: In the matter of James H. Savage, petitioner.

On consideration of the motions for leave to file petitions for writs of habeas corpus herein, and for leave to prosecute in forma pauperis, it is now here ordered by the court that said motions be, and the same are hereby, granted; and it is further ordered that writs of habeas corpus issue herein at once, returnable forthwith.

And on the same day, to wit, on the 16th day of December, A. D. 1889, the petition of James J. Medley for writ of habeas corpus was filed, which said petition is in the words and figures following, viz:

6 STATE OF COLORADO,
OFFICE OF THE SECRETARY OF STATE.

UNITED STATES OF AMERICA,
State of Colorado, ss:

I, James Rice, secretary of State of the State of Colorado, do hereby certify that Samuel A. Bentley, whose name is subscribed to the certificate of the proof or acknowledgment of the annexed instrument, and thereon written, was, at the time of taking such proof or acknowledgment, a notary public in and for the county of Fremont, in the State of Colorado, commissioned, sworn, and duly authorized by the laws of the State of Colorado to take the same. And I further certify that said instrument is executed and acknowledged according to the laws of the State of Colorado.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Colorado, at the city of Denver, this 7th day of December, A. D. 1889.

[SEAL.]

JAMES RICE,
Secretary of State.
By JOHN J. WYATT,
Deputy.

7 UNITED STATES OF AMERICA,
State of Colorado, County of Arapahoe, ss:

In the Supreme Court of the United States.

THE PEOPLE OF THE STATE OF COLORADO, Plaintiff, *vs.* JAMES J. MEDLEY, DEFENDANT.	In the matter of the application of James J. Medley for a writ of habeas corpus.

To the honorable Supreme Court of the United States of America:

The petition of James J. Medley respectfully showeth that your petitioner is a citizen of the United States, residing in the State of Colorado, and is now imprisoned or restrained in his liberty, and confined unjustly, illegally, and without authority of law as he is advised, by J. A. Lamping, warden of the State penitentiary of the State of Colorado, at Canon City, in the County of Fremont, State of Colorado, for some criminal or supposed criminal matter, as appears by the copy of commitment hereto annexed and other records on file in this case at the above number.

Your petitioner further showeth that an indictment for murder was found against him by the grand jury of Arapahoe County on the 5th day of June, 1889, a certified copy of which indictment is hereto annexed, which said indictment charges that your petitioner did, on the 13th day of May, in the year of our Lord, 1889, in the County of Arapahoe, and State of Colorado aforesaid, willfully and of his malice aforethought, kill

and murder one Ellen Medley, and that in pursuance thereof this
8 petitioner was at the September term of said district court, on the 24th day of September, tried upon said indictment, and found guilty by the jury of murder in the first degree, as appears by a certified copy of the verdict of the jury hereto annexed.

That subsequently, to wit, on the 29th day of November, 1889, he was sentenced to be remanded to the custody of the sheriff of Arapahoe County, and that within twenty-four hours he should be taken by said sheriff and delivered to the warden of the State penitentiary, to be kept in solitary confinment until the fourth week of the month of December next, and that then upon a day and hour in said week, to be designated by said warden, should be taken from said place of confinement to the place of execution within the confines of said penitentiary, and that he there be hanged by the neck until he be dead, as more fully appears by a certified copy of the sentence of the court hereto annexed.

Your petitioner further showeth that the act of the assembly of the State of Colorado under which he was sentenced was approved April 19th, 1889, and went into effect July 19th, 1889, and repealed all acts and parts of former acts inconsistent therewith, without a saving clause, and that the time upon which sentence was passed was charged to be and was committed on the 13th day of May, 1889. That your petitioner was sentenced under the late act, which changes the penalty in capital cases from that of the old to the disadvantage of your petitioner, making the punishment and its incidents greater, more aggravated in the following points, to wit: (1) The execution is enclosed from public view; (2) change of place of execution; (3) change of executioner; (4) lessens the time in which execution may take place; (5) change of place of imprisonment; (6) adds travel chained to car-seat; (7) substitutes strangers for
9 acquaintances; (8) adds solitary confinement; (9) access only to attendants, counsel, physician, spiritual adviser of his selection, and members of the family; (10) allows not even those to see him, except in accordance with prison regulations, which are strict and different from county jail regulations, or rather no regulations; (11) changes the person who shall fix the day and hour of execution; (12) limits the persons who shall or may be present at his death to the sheriff, chaplain, physician, surgeon, six reputable citizens of the State, and three deputies, and may not have any of his family or any dear friend or even his counsel present at that awful moment to console him in the presence of death; (13) time of execution shall be kept secret; (14) father, mother, wife, or children, never know what took place at his death, or how he died, or what he said, or what messages or directions, if any, he left for them; (15) nor shall the newspapers publish anything except that he was duly executed according to law, when he may not have been executed according to law at all; (16) sheriff shall make a return of execution; (17) warden keep record; (18) no notice of the hour of execution; (19) provides for post-mortem dissection; (20) takes away the discretion of the court for prolonging the time of execution from sentence; and that the said act is therefore an ex post facto act as to your petitioner, and is in contravention of Art. 1, Sec. 9 of the Constitution of the United States.

The Constitution of the United States provides as follows: Art. 1, Sec. 9. "No bill of attainder or ex post facto law shall be passed." Also Art. 1, Sec. 10. "No State shall pass any bill of attainder or ex post facto

law, etc." Also Art. 3, Sec. 2. "The judicial power of the United States Courts shall extend to all cases in law or equity arising under this Constitution and the laws of the United States," and that therefore as to
10 this crime the said act is an ex post facto law, and your petitioner can not constitutionally be sentenced to imprisonment or executed under it, as he is advised by his counsel, because the said act is in contravention of the Federal Constitution in its provisions, as above set forth, and therefore void as to this petitioner.

That the circuit court of the United States, within and for the district of Colorado, and the supreme court of the State of Colorado, in a case similar to your petitioner's, and involving exactly the same points, decided adversely to the petitioner.

Wherefore, to be relieved from said imprisonment your petitioner now prays that a writ of habeas corpus may be issued according to the law in such cases provided, directed to the said J. A. Lamping, as such warden, commanding him to produce the petitioner before this court here at such time as this court shall direct, so that your petitioner may be brought before this court to do, submit to, and to receive whatsoever may be right in that behalf.

J. J. MEDLEY.

STATE OF COLORADO,
County of Fremont, ss:

James J. Medley, being duly sworn, deposes and says that he is the petitioner above named, that he has read the foregoing petition, and knows the contents thereof, that the same is true of his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those he believes it to be true.

J. J. MEDLEY.

Subscribed and sworn to before me this third day of December, 1889.
[SEAL.] SAMUEL A. BENTLEY,
Notary Public, Coms. expires May 20, 1891.

11 District court, Arapahoe County.

4800. THE PEOPLE, &C.,)
vs.
JAMES J. MEDLEY.)

Be it remembered, that heretofore and on, to wit, the 5th day of June, A. D. 1889, the same being one of the regular days of the April term, 1889, of said court, came the members of the grand jury heretofore empanelled and filed herein among others the following true bill of indictment, which is in the words and figures as follows, to wit:

STATE OF COLORADO,
County of Arapahoe, ss:

In the district court of the second judicial district of the State of Colorado, within and for the county of Arapahoe aforesaid, in the State of Colorado, of the April term thereof, A. D. 1889.

The grand jurors chosen, selected, empannelled, and sworn within and

for the county of Arapahoe aforesaid, in the name and by the authority of the people of the State of Colorado, upon their oaths present:

That James J. Medley, late of the county of Arapahoe aforesaid, on, to wit, the thirteenth day of May, in the year of our Lord one thou-
12 sand eight hundred and eighty-nine, in the county of Arapahoe aforesaid, in the State of Colorado, feloniously, wilfully, deliberately, with premeditation and of his malice aforethought, did kill and murder one Ellen Medley, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the people of the State of Colorado.

Second count: And the grand jurors aforesaid, chosen, selected, empanelled, and sworn as aforesaid, upon their oaths aforesaid, in the name and by the authority of the people of the State of Colorado as aforesaid, do further present:

That James J. Medley, late of the county of Arapahoe aforesaid, on, to wit, the thirteenth day of May, in the year of our Lord one thousand eight hundred and eighty-nine, in the county of Arapahoe aforesaid, in the State of Colorado, with force and arms in and upon the person of one Ellen Medley, in the peace of the people, then and there being feloniously, wilfully, deliberately, with premeditation and of his malice aforethought, did make and assault; and that the said James J. Medley, a certain pistol, commonly called a revolver, the same being then and there charged and loaded with gunpowder and leaden bullets, which said pistol he, the said James J. Medley, in his right hand then and there had and held, then and there feloniously, wilfully, deliberately, with premeditation and of
13 his malice aforethought, did discharge and shoot off at, against, and upon the person of the said Ellen Medley; and that the said James J. Medley, with one of the leaden bullets aforesaid, out of the pistol aforesaid, then and there by force of the gunpowder aforesaid, by the said James J. Medley discharged and shot off, as aforesaid, then and there feloniously, wilfully, deliberately, with premeditation and of his malice aforethought, did strike, penetrate, and wound her, the said Ellen Medley, in and upon the left side of the chest of her, the said Ellen Medley, giving to her, the said Ellen Medley, then and there, with one of the leaden bullets aforesaid, so as aforesaid discharged and shot out of the pistol aforesaid, by the said James J. Medley, in and upon the left side of the breast of her, the said Ellen Medley, one mortal wound, of the depth, to wit, of five inches and of the breadth of half an inch; and that the said James J. Medley, with one other of the leaden bullets aforesaid, out of the pistol aforesaid, then and there, by force of the gunpowder aforesaid, by the said James J. Medley discharged and shot off, as aforesaid, then and there feloniously, wilfully, deliberately, with premeditation and of his malice aforethought, did strike, penetrate, and wound her, the said Ellen Medley, in and upon the left side and opposite the ninth rib of her, the said Ellen Medley, giving to her, the said Ellen Medley, then and there, with one of the leaden bullets aforesaid so as aforesaid discharged and shot out of the pistol aforesaid by him, the said James J. Medley, in and upon the left side of her, the said Ellen Medley, one mortal wound, of the depth, to wit, of six inches and of the breadth, to wit,
14 of one-half of an inch; and that the said James J. Medley, with one other of the leaden bullets aforesaid, then and there by force of

the gunpowder aforesaid, by the said James J. Medley, discharged and shot off as aforesaid, then and there feloniously, wilfully, deliberately, with premeditation and of his malice aforethought, did strike, penetrate, and wound her, the said Ellen Medley, in and upon the right side of the back and immediately below the shoulder blade of her, the said Ellen Medley, giving to her, the said Ellen Medley, then and there with one of the leaden bullets aforesaid, so as aforesaid discharged and shot out of the pistol aforesaid, by the said James J. Medley, in and upon the back of her, the said Ellen Medley, one mortal wound of the depth, to wit, of nine inches and of the breadth, to wit, of half an inch; of which said mortal wounds she, the said Ellen Medley, did suffer and languish, and languishing did live for a long period of time, to wit, two hours, and on the said thirteenth day of May, in the year of our Lord one thousand eight hundred and eighty-nine, in the county and State aforesaid, she, the said Ellen Medley, of the said mortal wounds did die. And so the grand jurors aforesaid, upon their oaths aforesaid, do say that the said James J. Medley, her, the said Ellen Medley, in manner and form aforesaid, then and there feloniously, wilfully, deliberately, with premeditation and of his malice aforethought, did kill and murder, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the people of the State of Colorado.

ISAAC N. STEVENS,
District Attorney.

15 Witnesses for the people:

GEO. L. GREEN.
CHARLES A. BOWMAN.
C. T. LINTON.
CHARLES BROWN.
JOHN MORAN.
JAMES BROWN.
WM. BROWN.
JAMES GLOUER.
L. D. HEALEY.
A. K. WORTHINGTON.
I. N. ROGERS.

(Endorsed:) No. 4800. In the district court. The people of the State of Colorado vs. James J. Medley. Indictment for murder. A true bill. Donald Fletcher, foreman of grand jury. Filed in district court Arapahoe Co., Colo., Jun 5, 1889. William T. Jenison, clerk. Charles T. Linton, prosecuting witness.

16 And afterwards, upon, to wit, the 28th day of September, A. D. 1889, the same being one of the regular juridical days of the September term of said court, came the jury heretofore empanelled for the trial of this cause, and returned into court their verdict, which is in words and figures as follows, to wit:

STATE OF COLORADO,
Arapahoe County, ss:

We, the jury, find the defendant, James J. Medley, guilty of murder in the first degree as charged in the indictment.

R. J. WALKER,
Foreman.

And afterwards, upon, to wit, the 29th day of November, A. D. 1889, the same being one of the regular juridical days of the September term

of said court, the court pronounced sentence upon the said defendant in words and figures as follows, to wit:

James J. Medley, you have been convicted of the crime of murder, and it becomes my duty to impose the penalty.

The sentence of the court is that you be remanded to the custody of the sheriff of this county; that within twenty-four hours you be
17 taken by the said sheriff and delivered into the custody of the warden of the penitentiary of this State; that you be by said warden kept in said penitentiary in solitary confinement until the fourth week of December, next month; that upon a day and hour in said week to be designated by said warden you be taken from said place of confinement to the place of execution within the confines of the said penitentiary, and that you be there hanged by the neck until you be dead.

And afterwards, and upon, to wit, the same day there issued out of the clerk's office of said court the death warrant in said cause, directed to the sheriff of Arapahoe County and to the warden of the State penitentiary, which said death warrant is in words and figures as follows, to wit:

18 STATE OF COLORADO,
County of Arapahoe, ss:

The people of the State of Colorado, to the sheriff Arapahoe County, and to the warden of the penitentiary of the State of Colorado, greeting:

Whereas at the April term, A. D. 1889, of our district court of the second judicial district of the State aforesaid, sitting in and for the county of Arapahoe, a certain indictment was by the grand jury then attending presented against James J. Medley for the crime of murder, whereupon such proceedings were had in our said court; that afterwards and on the 29th day of November, A. D. 1889, it was adjudged by our said court that the said James J. Medley be remanded to the custody of the sheriff of said Arapahoe County: that within twenty-four hours he, the said James J. Medley, be taken by the said sheriff and delivered into the custody of the warden of the penitentiary of the said State of Colorado; that he, the said James J. Medley, be by said warden kept in said penitentiary in solitary confinement until the fourth week in the month of December, A. D. 1889; and that upon a day and hour in said week to be designated by said warden, that he, the said James J. Medley, be taken from said place of confinement to the place of execution within the walls and the confines of said penitentiary and that he there be hanged by the neck until he be dead:

19 Now, therefore, we command you, the sheriff of the said county of Arapahoe, that you take the body of said James J. Medley and him safely keep, convey, and deliver to the warden of the said penitentiary within twenty-four hours, together with this warrant. And do you, the said warden, receive the body of the said James J. Medley, and him safely keep in solitary confinement within the walls of said penitentiary, until the fourth week in the month of December next, when you will, upon a day and hour in said fourth week of December, to be designated by you, take the body of the said James J. Medley from said place of confinement to the place of execution, so designated by you, and within the confines of

said penitentiary, and him, the said James J. Medley, then and there hang by the neck until he shall be dead, according to the judgment of our said district court, as aforesaid, and in accordance with the law of this State relating to executions for capital crime. And that after the full execution of said judgment of our said district court, as aforesaid, you, the said warden of said penitentiary, are hereby commanded to make return of all your doings upon this warrant to the said district court, in accordance with the law in such case made and provided.

Witness, Matt Adams, clerk of our said district court, with the seal thereof hereunto affixed, at office, in the city of Denver, this 29th day of November, A. D. 1889.

[SEAL.] MATT ADAMS,
Clerk,
Per HARRISON ALLEN,
Deputy Clerk.

20 (Endorsed:) No. 4800. The People, etc., *vs.* James J. Medley. Death warrant.

21 STATE OF COLORADO,
County of Arapahoe, ss:

I, Matt. Adams, clerk of the district court of Arapahoe County, State aforesaid, do hereby certify the above and foregoing to be a true, complete, and perfect transcript and copy of the indictment, verdict of jury, death sentence, and death warrant had and entered of record in a certain cause in said court lately pending, wherein the people of the State of Colorado was plaintiff and James J. Medley was defendant, as the same now remain on file and of record in this office.

Witness my hand and the seal of said court at the court-house in Denver, county and State aforesaid, this 30th day of November, A. D. 1889.

[SEAL.] MATT. ADAMS,
Clerk.

22 STATE OF COLORADO,
County of Arapahoe, ss:

I, George W. Allen, presiding judge of the district court of the second judicial district of the State of Colorado, do hereby certify that Matt. Adams, whose name is appended to the foregoing certificate as clerk of said district court, was such clerk when said certificate was signed, was duly commissioned and qualified to act as such clerk, and that his signature and the seal of said court there attached are genuine and entitled to full credence, and his said certificate is in due form.

Given under my hand and seal this 7th day of December, A. D. 1889.

[SEAL.] GEO. W. ALLEN,
Judge.

STATE OF COLORADO,
County of Arapahoe, ss:

I, Matt. Adams, clerk of the district court of the second judicial district of the State of Colorado, do hereby certify that George W. Allen, whose

name is subscribed to the foregoing certificate, is the presiding judge of the district court of the second judicial district of the State of Colorado, duly commissioned and qualified according to law, and was such presiding judge at the time when his signature was affixed to said certificate, and I further certify that the signature of said George W. Allen is genuine, and was affixed to said certificate in my presence.

Witness my hand and the seal of said court at the court-house in Denver, county and State aforesaid, this 7th day of December, A. D. 1889.

[SEAL.] MATT. ADAMS,
Clerk District Court.

23 (Indorsed:) U. S. Supreme Court. In the matter of the application of James J. Medley for a writ of habeas corpus. Petition and record. Rob't W. Bonynge, counsel for petitioner.

24 Supreme Court, U. S. 1889, October term. No. 5. Original. Ex parte: In the matter of James J. Medley, petitioner. Petition for writ of habeas corpus. Filed Dec'r 16, 1889.

25 And on the same day, to wit, the 16th day of December, A. D. 1889, the writ of habeas corpus in this cause was issued to the marshal.

And afterwards, to wit, on the 18th day of December, A. D. 1889, a stipulation was filed, which said stipulation is in the words and figures following, viz:

26 In the Supreme Court of the United States. In the matter of the application of James J. Medley for a writ of habeas corpus.

It is agreed by the State of Colorado, and by said petitioner, James J. Medley, that the personal presence of the petitioner in this court in these proceedings is waived, and that the hearing may be had and decision rendered in the same manner and with the same effect as if the petitioner were bodily present in court in pursuance of said writ of habeas corpus.

SAMUEL JONES,
Attorney-General of Colorado,
By W. H. H. MILLER,
A. T. BRITTON, and
HENRY WISE GARNETT,
Of Counsel for Petitioner, James J. Medley.

Copy of telegram of governor of Colorado attached in Savage case No. 6.

27 (Indorsed:) Supreme Court, U. S. 1889, October term. No. 5. Original. Ex parte: In the matter of James J. Medley, petitioner. Stipulation waiving personal presence of petitioner and as to hearing of cause. Filed Dec'r 18, 1889.

28 And on the same day, to wit, on the 18th day of December, A. D. 1890, the following entry appears of record, viz:

No. 5. Original. Ex parte: In the matter of James J. Medley, petitioner.

No. 6. Original. Ex parte: In the matter of James H. Savage, petitioner.

Ordered by the court that these cases be, and they are hereby, assigned for argument on the second Monday in January next, at the head of the call for that day.

And afterwards, to wit, on the 4th day of January, A. D. 1890, the writ of habeas corpus, with proof of service of same, was filed, which said writ is in the words and figures following, viz:

29 THE UNITED STATES OF AMERICA, *ss:*

[SEAL.] The President of the United States, to J. A. Lamping, warden of the State penitentiary of the State of Colorado, at Cañon City, Fremont County, State of Colorado, greeting:

We command you that the body of James J. Medley, in your custody detained, as it is said, by whatever name he may be charged, together with the return of the day and cause of his detention, you have before the Supreme Court of the United States, sitting in the Capitol of the United States, at the City of Washington, being the present seat of the National Government, forthwith, then and there to receive and submit to all and singular whatsoever the said Supreme Court shall consider concerning him in this behalf. And have you then and there this writ with your doings in the premises.

Witness the honorable Melville W. Fuller, Chief-Justice of the Supreme Court of the United States, the 16th day of December, A. D. 1889.

JAMES H. MCKENNEY,
Clerk of the Supreme Court of the United States.

30 CAÑON CITY, COLO., *Dec. 30th*, 1889.

I hereby accept service of a copy of within writ.

J. A. LAMPING,
Warden,
Per G. E. DUDLEY,
Deputy.

UNITED STATES OF AMERICA,
District of Colorado, ss:

DENVER, COLO., *Dec. 31st*, '89.

I do hereby certify that I have duly served the within writ by personally delivering a true copy of same to J. A. Lamping, by his deputy, George E. Dudley, on this the 30th day of December, A. D. 1889.

This writ therefore returned executed, as the law directs, this 31st day of December, A. D. 1889.

ZEPH T. HILL,
U. S. Marshal,
By C. A. MORRISON,
Deputy.

Marshal's fees: 1, service, $2; 160 miles going, at,6c., $9.60; $11.60.

SUPREME COURT OF THE UNITED STATES,
MARSHAL'S OFFICE,
December 16, 1889.

I, J. M. Wright, marshal of the Supreme Court of the United States, do hereby authorize and deputize Z. T. Hill to serve the within writ and to make due return thereof.

J. M. WRIGHT,
Marshal.

(R. 158–328. Received Dec. 19, 1889. U. S. marshal's office, district Colorado.)

31 (Indorsement:) Supreme Court U. S. 1889, October term. No. 5. Original. Ex parte: In the matter of James J. Medley, petitioner. Writ of habeas corpus and proof of service of same.
(Stamp:) Office Supreme Court U. S. Filed Jan. 4, 1890. James H. McKenney, clerk.

1 IN THE SUPREME COURT OF THE UNITED STATES.

THE PEOPLE OF THE STATE OF COLORADO, PLAINTIFF,
vs. JAMES J. MEDLEY, DEFENDANT.

UNITED STATES OF AMERICA,
State of Colorado, County of Arapahoe, ss:

In the matter of the application of James J. Medley for a writ of habeas corpus.

To the honorable Supreme Court of the United States of America:

Joseph A. Lamping, warden of the State penitentiary of the State of Colorado, the respondent in the writ of habeas corpus issued herein, for return thereto, respectfully submits to your honorable court that it is true that the said James J. Medley, therein named, is confined and restrained of his liberty by the said Joseph A. Lamping, by virtue of his office as warden as aforesaid, but the said Joseph A. Lamping alleges that the said James J. Medley is restrained lawfully by virtue of a writ issued out of the district court of Arapahoe County, State of Colorado, of which the following is a copy:

2 [Copy.]

THE UNITED STATES OF AMERICA, *ss:*

The President of the United States, to J. A. Lamping, warden of the State penitentiary of the State of Colorado, at Cañon City, Fremont County, State of Colorado, greeting:

We command you that the body of James J. Medley, in your custody detained, as it is said, by whatever name he may be charged, together with the return of the day and cause of his detention, you have before the Supreme Court of the United States, sitting in the Capitol of the United States, at the city of Washington, being the present seat of the National Government, fourthwith, then and there to receive and submit to all and singular whatsoever the said Supreme Court shall consider concerning him in this behalf. And have you then and there this writ with your doings in the premises.

Witness the honorable Melville W. Fuller, Chief-Justice of the Supreme Court of the United States, the 16th day of December, A. D. 1889.

[SEAL.] JAMES H. MCKENNY,
Clerk of the Supreme Court of the United States.

1

3 [Copy.]

STATE OF COLORADO,
Governor's Office, Denver:

DECEMBER 20, 1889.

EXECUTIVE ORDER.

Whereas in the matter of James J. Medley and James H. Savage, convicted of murder in the first degree in the district court of Arapahoe county, at the September term, A. D. 1889. I am officially advised that a wit of habeas corpus has been issued from the Supreme Court of the United States for the said James J. Medley and James H. Savage:

Therefore, in order that a hearing can be had in these proceedings, the warden of the State penitentiary is hereby directed and commanded to suspend and delay the execution of the respective sentences of the court in the said matter until the third week in March, A. D. 1890, and upon a day and hour in said week to be designated by said warden he will faithfully execute the respective sentences of the said court, unless otherwise directed by competent authority.

And these presents shall be his full and sufficient warrant for so doing.

Given under my hand and official seal at the city of Denver, this 20th, day of December, A. D. 1889.

(Signed)

JOB A. COOPER,
Governor.

[Executive office seal, State of Colorado.]

4 [Copy.]

STATE OF COLORADO,
County of Arapahoe, ss:

The people of the State of Colorado, to the sheriff Arapahoe County, and to the warden of the penitentiary of the State of Colorado, greeting:

Whereas at the April term, A. D. 1889, of our district court of second judicial district of the State aforesaid, sitting in and for the county of Arapahoe, a certain indictment was by the grand jury then attending presented against James J. Medley for the crime or murder, whereupon such proceedings were had in our said court, that afterwards, on the 29th day of November, A. D. 1889, it was adjudged by our said court that the said James J. Medley be remanded to the custody of the sheriff of said Arapahoe County; that within twenty-four hours he, the said James J. Medley, be taken by the said sheriff and delivered into the custody of the warden of the penitentiary of the said State of Colorado; that he, the said James J. Medley, be by said warden kept in said penitentiary in solitary confinement until the fourth week in the month of December, A. D. 1889, and that upon a day and hour in said week to be designated by the said warden, that he, the said James J. Medley, be taken from said
5 place of confinement to the place of execution within the walls and the confines of said penitentiary and that he there be hanged by the neck until he be dead.

Now, therefore, we command you, the sheriff of said county of Arapahoe, that you take the body of the said James J. Medley and him safely keep, convey, and deliver to the warden of the said penitentiary within twenty-four hours, together with this warrant; and do you, the said warden, receive the body of the said James J. Medley and him safely keep in solitary confinement within the walls of said penitentiary until the fourth week in the month of December next, when you will, upon a day and hour in said fourth week in December to be designated by you take the body of the said James J. Medley from said place of confinement to the place of execution so designated by you, and within the confines of said penitentiary, and him, the said James J. Medley, then and there hang by the neck until he shall be dead, according to the judgement of our said court as aforesaid, and in accordance with the law of this State relating to execution for capital crime, and that after the full execution of said judgement of our said district court as aforesaid, you, the said warden of said penitentiary, are hereby commanded to make return of all your doings upon this warrant to the said district court, in accordance with the law in such cases made and provided.

Witness Matt Adams, clerk of our said district court, with the seal thereof hereunto affixed, at office in the city of Denver this 29th day of November, A. D. 1889.

MATT ADAMS,
Clerk,
Per HARRISON ALLEN,
Dep. Clk.

[Seal dist. court.]

6 which is the true cause of his imprisonment.

That the said Joseph A. Lamping does not produce the body of the said James J. Medley before this honorable court, for the reason that by an order heretofore entered in this court it was directed that the body of the said James J. Medley be not produced in court.

Wherefore the said Joseph A. Lamping makes return of said writ as therein he is required.

J. A. LAMPING,
Warden of State Penitentiary of State of Colorado.

Dated January 9th, 1890.

Subscribed and sworn to before me this 9th day of January, A. D. 1890.

[SEAL.] FRANK P. SHEAFOR,
Notary Public.

My commission expires May 11, 1892.

7 (Indorsed on cover: Supreme Court, U. S. 1889, October term. No. 5. Original. Ex parte: In the matter of James J. Medley, petitioner. Return to writ of habeas corpus. Office Supreme Court, U. S. Filed. Jan. 13, 1890. James H. McKenney, clerk.